

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 22, "Controlling Pollution," Iowa Administrative Code.

The purpose of this amendment is to increase the maximum dollar per-ton fee specified in 567—subrule 22.106(1). This is the maximum fee that the Environmental Protection Commission can establish on the first 4,000 tons of actual emissions of each regulated air pollutant emitted annually from sources subject to the Title V operating permit program. There are currently 273 sources in the state that are subject to this program.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 8, 2008, as **ARC 7220B**. A public hearing was held on November 12, 2008. The Department received one written comment prior to the end of the public comment period on November 13, 2008. One written comment was also received at the public hearing. No oral comments were received. Based on consideration of the comments received, the Department has changed the duration of the fee cap from five to three years. The Department has also revised the proposed fee cap from \$62 to \$56, which is estimated to provide sufficient funding for three years rather than the proposed five years. A public participation responsiveness summary is available from the Department upon request.

Budget projections and estimates of actual emissions indicate that the annual Title V fee will have to be increased above \$39 per ton to maintain the current level of service in state fiscal years 2010 through 2012. The Department will continue to work with interested parties to examine alternate fee scenarios.

The increase from \$39 per ton to \$56 per ton is based on budget projections for the next three state fiscal years and on estimates of actual emissions during this period. Basing the maximum fee on budget projections for the next three state fiscal years should prevent the need for the Commission to change the maximum dollar per-ton fee provision in subrule 22.106(1) again for at least this period of time. The need to increase the maximum fee to maintain the current level of services is the result of the combination of projected increases in staff salaries due to negotiated contract increases, including indirect costs; increased equipment and operating costs for the state's ambient air monitoring network; and projected decreases in actual emissions.

This amendment is intended to implement Iowa Code section 455B.133.

This amendment will be effective on February 4, 2009.

The following amendment is adopted.

Amend subrule 22.106(1) as follows:

22.106(1) Fee established. Any person required to obtain a Title V permit shall pay an annual fee based on the total tons of actual emissions of each regulated air pollutant, beginning November 15, 1994. Beginning July 1, 1996, Title V operating permit fees will be paid on or before July 1 of each year. The fee shall be based on actual emissions required to be included in the Title V operating permit application and the annual emissions statement for the previous calendar year. The department and the commission will review the fee structure on an annual basis and adjust the fee as necessary to cover all reasonable costs required to develop and administer the programs required by the Act. The department shall submit the proposed budget for the following fiscal year to the commission no later than the March meeting. The commission shall set the fee based on the reasonable cost to run the program and the proposed budget no later than the May commission meeting of each year. The commission shall provide an opportunity for public comment prior to setting the fee. The commission shall not set the fee higher than ~~\$39~~ \$56 per ton without adopting the change pursuant to formal rule making.

[Filed 12/10/08, effective 2/4/09]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/31/08.